

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

NICHOLAS J. CENCICH,

Petitioner,

v.

MAGGIE MILLER-STOUT,

Respondent.

NO. C10-5164 BHS/KLS

ORDER GRANTING  
PETITIONER'S MOTION TO STAY  
AND HOLD PETITION IN  
ABEYANCE

Before the court is Petitioner's motion to stay and hold his habeas corpus petition in abeyance. Dkt. 9. Respondent agrees that it is proper to stay these proceedings until conclusion of the pending state court proceedings. Dkt. 18.

Mr. Cencich filed his federal habeas corpus petition challenging his state court convictions and a motion to stay on March 31, 2010. Dkt. 1. At this time, Mr. Cencich has one personal restraint petition proceeding that remains pending in the Washington Supreme Court. Dkt. 18, Exh. 1 (Docket, *In re Cencich*, Supreme Court Cause No. 83894-1).

Respondent reports that, according to the Washington Supreme Court's docket, the Commissioner of the Washington Supreme Court denied review on April 15, 2010, but Mr.

1 Cencich still has the opportunity to file a motion to modify the Commissioner's ruling. *Id.*,  
 2 Exh. 1 at 1.

### 3 *DISCUSSION*

4 The Court may stay a petition where the stay would be a proper exercise of discretion.  
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 6 *Rhines v. Weber*, 125 S. Ct. 1528, 1534 (2005); *see also Fetterly v. Paskett*, 997 F.2d 1295 (9th  
 7 Cir. 1993); *Calderon v. United States Dist. Court (Thomas)*, 144 F.3d 618, 620 (9th Cir. 1998);  
 8 *Anthony v. Cambra*, 236 F.3d 568 (9th Cir. 2000). Respondent agrees it would be a proper  
 9 exercise of discretion for the Court to stay the federal proceedings because it appears the state  
 10 court proceeding should be resolved in the near future, possibly within the next six weeks.  
 11 Dkt. 18, p. 2. If Cencich files a motion to modify, the Washington Supreme Court should rule  
 12 on the motion shortly thereafter. After the state court proceedings are completed, Respondent  
 13 may obtain the state court file for that proceeding, and may file an answer to the federal  
 14 petition. Neither party should be prejudiced by the duration of a stay of these proceedings.  
 15

16 Accordingly, it is **ORDERED**:

17 (1) Petitioner's motion for a stay (Dkt. 9) is **GRANTED** and this matter is  
 18 **STAYED** pending resolution of the state court proceedings.

19 (2) Petitioner shall advise the Court within thirty (30) days of receiving a final State  
 20 court ruling.  
 21

22 DATED this 26th day of May, 2010.

23  
 24   
 25 Karen L. Strombom  
 26 United States Magistrate Judge